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to recover its lost property in its own time, and by whatever means it deems fit to employ.

IV. *The case of stolen or lost camels, recognised in a town or settlement by their original owners. (Both parties for example having come up to purchase supplies.)*

If the two parties are members of tribes which are friendly and on good terms with each other, and if their respective tribes are on good terms with, and under the authority of, the Ruler or Governor of the town in question, then the claimant must produce three witnesses to testify that the property he claims is his own. The words he himself uses to prove his claim before the authority hearing the case are, "I affirm that I neither sold nor gave away this my camel". Having completed this formality, the claimant will receive back his camel by order of the Ruler or Governor of the said town. (This sort of case frequently arises in Kuwait and towns in Najd.)

In the event of the person in possession of the camel having bought it from a third party unaware that it was the lawful property of a member of a friendly tribe, the procedure is different (see below). Again, if the person in possession of the camel has obtained it in war from a third party, the claimant will only receive it back if the custom of *'arafa* exists between his tribe and that of the person with whom the camel is found (see below).

V. *The case of a tribe of one Government attacking a tribe of another Government and a battle resulting.*

The attacked tribe has the right to ask its Government to demand and recover full blood-money for its killed and injured from the Government of the guilty party. Should the complainant's Government not be in a position to exact reparation or come to an agreement with the aggressor's Government, either as to the blood-money due or to the terms of peace acceptable to the injured tribe, then the families of the victims have the right to take revenge in their own time and way, without being responsible to their Government in any respect. (V is similar to III.)

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THE PRACTICAL APPLICATION OF THE CUSTOM OF 'ARAFA ON THE BORDERLAND BETWEEN TWO STATES

425 The application of the *'arafa* law becomes somewhat less easy when
648 two tribes which are perhaps hostile to each other, or belong to differ-
619 ent states adjoining one another, are involved, or where strong Governments are functioning, as to-day in the case in Kuwait, Sa'udi Arabia and Iraq, and where border officials are interested in seeing that shaikhs and individual members of tribes in their areas do not raid, steal or take the law into their own hands, especially across the border.

In such cases, while the custom of *'arafa* is quite well understood, it is essential that a controlling authority enforce the rules of the game, otherwise nothing is done. The Shaikh of Kuwait put it in a nutshell, when he told me that the law of *'arafa* was a most excellent law for settling Badawin disputes, and it dated back to very ancient times, but unless Rulers or Governments were strong enough to enforce it within or across their borders it became quite useless, for then as always the strongest won the day. A Badawin, for instance, in the case mentioned below, would never hand over the camel he had purchased unless he was made to do so by his Government acting through its officials on the spot.

425 "A", a subject of some state, finds a camel which has been stolen
• [694] from him in the past, grazing in the desert with "B's" camels (a subject of another state). "A's" and "B's" tribes are not on friendly terms.
695 "A" does not waste his time in going and demanding it from "B",
696 who quite naturally will refuse to give it up until made to do so. He goes instead to the nearest *Hákim* or Government representative in the particular area "B" is in, armed with a letter from his own frontier officer. (To-day in North-East Arabia it is Hamud al Baga'awi for Sa'udi Arabia, 'Abdullah bin Jabir for Kuwait, and the Iraqi Officer in Charge Southern Desert Police for Iraq), and will say that "B" has in his possession a certain camel which has been stolen from him, "A". The officer in charge of the area in question will send for "B" and in his presence will ask "A" to prove his claim. Here is where the Shari'a law comes in as practised in the desert. "A" can

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prove his claim in two ways, (*a*) either by producing two witnesses who will corroborate his testimony that the camel was his property, and that he had neither sold nor given it away, or (*b*) "A" can produce one witness who must declare *on oath* that the camel belongs to "A" and that it was neither sold nor given away by him. 425 695 696

"B" can also if he likes insist that "A" states the same thing on oath, but this is not actually necessary, according to the law.

One or other of these courses having been followed, the Government officer in charge of the area in question does not even ask how "B" got the camel, but on the above evidence must order "B" to hand over the animal at once.

If "B" has stolen the camel himself, he will of course gladly hand over and hope "A" will not bring further witness proving that he stole it.

If, however, "B" has innocently bought the camel from say "C", then he can be counted upon to shout this fact from the housetops (this in spite of the fact that a rather dead order exists both in Sa'udi Arabia and Kuwait to-day, which forbids a man buying a camel till the seller can satisfactorily prove that it has not been stolen). The officer dealing with the case will then proceed as follows: He must ask who the seller "C" was and where he can be found. When "B" has told him, "C" will be summoned, and in the presence of "C" "B" will have to produce two witnesses to testify that he bought the camel from "C" (or one witness to take oath). When "B" has done this to the satisfaction of the officer, the latter makes "C" pay the purchase money back to "B". If "C" claims to have bought the camel from "D", the officer will adopt the same procedure, working backwards till the original thief is found, who then is suitably punished.

The above method of settlement becomes somewhat more complicated if individuals concerned are subjects of different states. For instance, should "A" be a Kuwaiti, "B" be an Iraqi and "C" a Najdi, the procedure is the same, only three *Hákims* or frontier officers have to be brought in. For instance, "A" will go to the Shaikh of Kuwait, who will send him armed with a letter (usually also with a letter from the Political Agent) to the Inspecting Officer or Com- 425 648 694 695 641

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mandant of Police Southern Desert area where "B" resides. That official will take action on the letter, and if proofs are clear will hand back the camel to "A". He will then send "B" with a letter direct to al Baga'awi, or such other Najd official as may be in charge of Sa'udi Arabian frontier affairs opposite Iraq and Kuwait, together with "B's" witnesses. Al Baga'awi will then get "B's" rights from "C" and so on. In conclusion, the easy working of the *'arafa* system along a frontier obviously depends on four things:

(*a*) that friendly relations exist between the Governments involved;

(*b*) that officers are placed in charge of frontier areas, and that their writ goes;

(*c*) that such local officials are empowered to deal direct with each other without having to refer to higher authority: this especially applies to smaller claims of tribesmen on both sides of the border. (Important cases would of course be referred to Central Governments.)

(*d*) That the Shari'a law, recognised by the Badawin of the desert, and not any form of civil code, be applied in deciding *'arafa* questions, especially where oaths are concerned.

Between 1929 and 1930 Captain Glubb, R.E., at one time in charge of the Iraq Southern Desert area, and I in my capacity of Political Agent, Kuwait, frequently dealt direct with each other in questions of claims between Iraq and Kuwait tribesmen, and we settled many cases on the above lines, everyone being satisfied and accepting settlement cheerfully. During the same period matters were not so easy where Kuwait and Sa'udi Arabia tribes were concerned, because (*a*) relations unfortunately were not good, and (*b*) no official of officer status existed across the border who could be addressed on the subject with prospect of reasonable success. Later, however, His Majesty King Bin Sa'ud remedied the matter by appointing strong frontier representatives, with headquarters at Hafar and Jariyah Ilya respectively, and matters greatly improved.

In February 1931 His Majesty King Bin Sa'ud proposed to the Shaikh of Kuwait that all camel claims affecting both states which went back prior to February 1931 should be declared *madfún* ("buried") because an enormous number had accumulated as a result of the